IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 10044 of 2004

Between:

Gonapa Balakrishna S/o. Appanna
Supervisor (Retired), R/o. Chinabadam Village, Palasa Mandal, Srikakulam District.

..... PETITIONER

AND

The District Cooperative Central Bank Limited, Srikakulam, rep. by its General Manager

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ of mandamus or any other appropriate writ or direction declaring the action of the respondent in not permitting the petitioner to withdraw the fixed deposit No.4723 and 4724 dated.
8-12-2003 and 4576 dated 13.11.2003 totaling to Rs.2,59,576 lying with the respondent bank as illegal arbitrary and without jurisdiction and consequently direct the respondent bank to release the fixed deposit amounts.

Counsel for the Petitioner: MR.K.BHEEMA RAO

Counsel for the Respondent: MR.KOKA RAGHAVA RAO

The Court at the stage of admission made the following ORDER:

Petitioner, who worked in the Respondent-Bank, retired from service on 31.07.2003 and as such he is entitled for his retirement benefits i.e. gratuity amount of Rs.2,86,000/-, leave encashment of Rs.1,26,000/-. The grievance of the petitioner is that the respondent-Bank has not paid the gratuity amount and leave encashment at the time of his retirement, and under protest, he gave an undertaking to the effect that the amount would be kept in fixed deposits with the respondent-Bank, and accordingly deposited an amount of Rs.2,59,576/- with the respondent-Bank. Petitioner claims that he is entitled for the interest at the rate of 8% per annum from the date of retirement till the date of deposit i.e. on 08.12.2003. He further states that when his son got admission into M.Sc. course, he approached the bank seeking permission to withdraw the deposits, but the respondent-Bank refused for withdrawal. Hence, the writ petition.

In the counter-affidavit filed by the respondent-Bank, it is stated that the petitioner was paid all his retirement benefits in time and he himself made the fixed deposits, which are going to be matured in 2006, in Srikakulam branch of their bank. It is stated that the petitioner gave an undertaking with regard to the pendency of surcharge proceedings by the District Co-operative Officer in connection with implementation of Section 116(c) during the period from 2001 to 2003 and the petitioner never approached the bank concerned for withdrawal of the amount deposited. It is further stated that as and when the petitioner approaches the Branch Manager of the Bank concerned, with which the deposits are made, his application for withdrawal of the amount will be considered and necessary proceedings will be passed.

Heard learned counsel on either side and considered the material available on record.

In view of the assertion made by the respondent-Bank in the counter-affidavit, without going into merits of the case, in the interest of justice, I am of the view that the petitioner is at liberty to approach the Bank concerned, with which he

deposited the amount, for withdrawal of the same and on complying with the formalities, it is for the respondent-Bank to consider the matter and pay the amount deposited.

With the above said observation, the writ petition is disposed of.

30.09.2004

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To

1 The District Cooperative Central Bank Limited, Srikakulam, rep. by its General Manager

2 Two CD copies.